

This letter describes how the resale exemption applies to pallets and shrink-wrap/stretch wrap. See 86 Ill. Adm. Code 130.2070. (This is a GIL.)

October 6, 2003

Dear Xxxxx:

This letter is in response to your letter dated August 4, 2003. We did not receive your original letter dated March 19, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am a sales tax consultant conducting reverse audits for clients in Illinois.

My client is a food processor that packages their products into large bags (powdered mixes) or into containers (oils). The packages are automatically stacked onto pallets, stretch wrapped and taken to the finished goods warehouse.

My client sells their products to food processors or distributors. In every case the products are shipped on pallets. However, the billing for these pallets is handled in one of three ways:

1. The cost of the pallets is included in the price of the products.
2. Bill the customer as a separate line item on the invoice. They do not charge sales tax on the products or the pallets, as the customers are tax exempt.
3. Send the pallets as an exchange with the customer expected to return the pallets. In some cases the customer does return the pallets; in other they return them to the common carrier but my client does receive them back from the carrier. If the carrier does not return them my client will bill the carrier.

The client has spent over \$600,000 per year on pallets but cannot break down the number used in each of the above billing situations.

I have found several examples such as ST 97-0011 at your web site but none that are exactly as outlined above.

I believe that the pallets should be exempt but my client would like a Letter Ruling from the department confirming that the pallets are exempt from Illinois Sales Tax.

If you should have any questions, please do not hesitate to call.

DEPARTMENT'S RESPONSE:

You are inquiring about the "resale" exemption from sales tax for containers or wrapping set out in 86 Ill. Adm. Code 130.2070(b). When sellers transfer ownership of packaging materials or containers to customers together with the ownership of the tangible personal property contained within, such packaging materials or containers may be purchased tax-free as purchases for resale, 86 Ill. Adm. Code 130.2070. Purchases of pallets or shrink-wrap/stretch wrap can qualify for resale status if their ownership is transferred to customers along with the property contained on them. See Section 130.2070(b).

In your first example, the pallets become a part of an item of tangible personal property that will be sold to the final customer (i.e. your customer's customer). Assuming that this is the case, and all ownership rights to the pallets or shrink-wrap/stretch-wrap are transferred to your client's customer, the resale exemption would apply.

In your second example, if your client's customer is purchasing the pallets for resale by providing your client with a resale certificate, then your client may claim the resale exemption. Please note that if the customer reuses the pallets or discards them after delivery, then the customer will not be purchasing the pallets for resale and the customer will incur tax on the purchase price of those pallets. See Section 130.2070(c).

In your final example, if the customer does not return the pallets to you and your client bills the carrier for them, then the resale exemption would not generally apply.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk